

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,)
Plaintiff,) 8:05CR126
vs.)
MICHAEL G. LARSEN,)
TERRY J. FOGLE and)
SHERI A. PLYMALE,)
Defendants.) ORDER

This matter is before the court on the motion to continue trial by defendant Terry J. Fogle (Fogle) (Filing No. 36). Fogle seeks a continuance of the trial from the June 27, 2005 trial date. Defense counsel represents to the court that counsel for the government has no objection to the extension. Fogle's counsel represents that an affidavit in accordance with paragraph 9 of the progression order whereby Fogle consents to the motion and acknowledges he understands the additional time may be excludable time for the purposes of the Speedy Trial Act will be filed. Upon consideration, the motion will be granted.

IT IS ORDERED:

1. Fogle's motion to continue trial (Filing No. 36) is granted.
2. Trial of this matter as to all defendants is re-scheduled for **August 1, 2005**, before Chief Judge Joseph F. Bataillon and a jury. The ends of justice have been served by granting such motion and outweigh the interests of the public and the defendants in a speedy trial. The additional **time** arising as a result of the granting of the motion, i.e., the time between **June 3, 2005 and August 1, 2005**, shall be deemed **excludable** time in any computation of time under the requirement of the Speedy Trial Act for the reason that defendants' counsel require additional time to adequately prepare the case. The failure to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(8)(A) & (B).

DATED this 3rd day of June, 2005.

BY THE COURT:

s/Thomas D. Thalken
United States Magistrate Judge